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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,221	08/28/2003	Michael W. Wathen	Pharmacia Case 01669	7644
26303	7590	08/18/2004	EXAMINER	
FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1699			SPIVACK, PHYLLIS G	
			ART UNIT	PAPER NUMBER

1614

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/651,221

Applicant(s)

MICHAEL W. WATHEN ET AL.

Examiner

Phyllis G. Spivack

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Methods of preventing or treating inflammatory response associated with atherosclerosis comprising administering a cinnolinecarboxamide of instant Formula VI or VII, in which no heterocyclic ring system other than morpholine, thiomorpholine, oxazolidine, triazine, imidazole, furan or pyran is present, classified in class 514, subclasses 222.2, 231.5, 242, 248.
- II. Methods of treating or preventing inflammatory response associated with atherosclerosis comprising administering a naphthradine of instant Formula VIII or IX, in which no heterocyclic ring system other than morpholine is present, classified in class 514, subclass 300.
- III. Methods of preventing or treating inflammatory response associated with atherosclerosis comprising administering a cinnolinecarboxamide of instant Formula VI or VII or administering a naphthradine of instant Formula VIII or IX, wherein the compound administered is not encompassed in Group I or Group II *supra*, classified in various subclasses of class 514, depending on the heterocyclic ring systems present.

The Groups are distinct, each from the other, for the following reasons:

The Groups have acquired a separate status in the art as shown by their different classification and their recognized, divergent subject matter. The searches required for each Group are not co-extensive resulting in an undue burden to the Examiner. Each

Group is capable of supporting a separate patent. Thus restriction for examination purposes, as indicated, is proper.

Further, in the event Group III is elected, an election of a single disclosed species is required. Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims will be restricted if no generic claim is finally held to be allowable.

Applicants are advised a reply to this requirement must include an identification of the species that is consonant with this requirement and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species that are written in dependent form or otherwise include all of the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, Applicants must indicate which are readable upon the elected species. MPEP 809.02(a).

Should Applicants traverse on the ground that the species are not patentably distinct, Applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

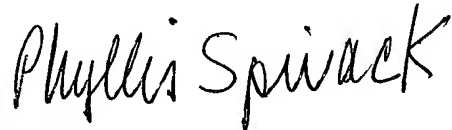
Art Unit: 1614

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicants are advised that to be complete, the reply to this requirement must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Any inquiry concerning this communication should be directed to Phyllis G.

Spivack at telephone number 571-272-0585.



Phyllis G. Spivack
Primary Examiner

Art Unit 1614 **PHYLLIS SPIVACK**
PRIMARY EXAMINER

August 16, 2004